



**Administrative Regulation**  
**Alcohol/Drug Use, Abuse**  
**and Testing**

<b>Policy #</b>	03-07.16
<b>Effective Date:</b>	September 27, 2021
<b>Revision Date:</b>	N/A
<b>Owner:</b>	Human Resources

**Purpose:**

To achieve a work place free of the impairments of drugs and alcohol and to be in compliance with State and Federal law(s) which prohibits anyone whose ability to work safely has been impaired by alcohol, drugs, or medication from working in that condition.

**Scope:**

This policy applies to all employees except where noted in this policy or where it is inconsistent with the DOT–CDL Substance Abuse Testing Administrative Regulation, applicable law and/or collective bargaining agreement provisions. This policy revises and supersedes all previous drug and alcohol testing policies and practices.

**Policy:**

The City expects employees to report to work in a condition that is conducive to performing their duties in a safe, effective and efficient manner. An employee's off-the-job as well as on-the-job involvement with drugs, alcohol, and medications can have a significant impact on the workplace and can present a substantial risk to the employee, to co-workers, and to others.

**Procedure:**

1. Prohibited Conduct

- 1.1. Possession, transfer, use or being under the influence of any alcohol while on City property, on City time, while driving City vehicles (or personal vehicles while on City business), or in other circumstances which adversely affect City operations or safety of City employees or others.
  - 1.1.1. Law enforcement employees may possess or transfer alcohol during the performance of their law enforcement duties, e.g., collecting evidence.
  - 1.1.2. The conduct prohibited by this rule includes consumption of any intoxicating liquor within four hours of reporting to work or during rest breaks or meal periods. If use of alcoholic liquor or an alcohol “hangover” adversely affects an employee's physical or mental faculties while at work to any perceptible degree, or the employee's blood alcohol content exceeds .02 percent, the employee will be deemed "under the influence" for purposes of this rule.

1.2. Possession, distribution, dispensing, sale, attempted sale, use, manufacture or being under the influence of any narcotic, hallucinogen, stimulant, sedative, drug or other controlled substance while on City property, on City time, while driving City vehicles (or personal vehicles while on City business), or in other circumstances which adversely affect City operations or safety of City employees.

1.2.1. Law enforcement employees may possess narcotics, drugs or other controlled substances while engaging in law enforcement duties, e.g., collecting or transporting evidence.

1.2.2. The conduct prohibited by this rule includes consumption of any such substance prior to reporting to work or during rest breaks or meal periods. If use of such substances or withdrawal symptoms adversely affects an employee's physical or mental faculties while at work to any perceptible degree, or the employee tests "positive" for any such substances by screening and confirmation tests, the employee will be deemed "under the influence" for purposes of this rule.

1.3. Bringing to City property, or possessing, items or objects on City property that contain any "controlled substance," including, for example, "pot brownies", "edibles" and candy containing marijuana. This prohibition does not apply to law enforcement employees who bring or possess such items in connection with law-enforcement work. No employee, regardless of position held, may knowingly serve items containing marijuana or any other "controlled substance" to co-workers, members of the public, or elected officials while on work time or on/in City property.

1.4. Bringing equipment or any devices marketed for use or designed specifically for use in ingesting, inhaling or otherwise introducing marijuana (or controlled substances), such as pipes, bongs, "vape" pens, smoking masks, roach clips, and or other drug paraphernalia. This prohibition does not apply to employees who possess such items in connection with law enforcement work.

1.5. Bringing equipment, products or materials that are marketed for use or designed for use in planting, propagating, cultivating, growing, or manufacturing marijuana, including live or dried marijuana plants to City property. This prohibition does not apply to employees who possess such items in connection with law enforcement work.

## 2. Prescription Drugs and Medical Marijuana

2.1. With the exception of medical marijuana, nothing in this rule is intended to prohibit the use of a drug taken under supervision by a licensed health care professional, where its use does not present a safety hazard or otherwise adversely impact an employee's performance or City operations.

2.2. Employees must inform their supervisor about their use of any prescription or over-the-counter drugs that could affect their ability to safely perform the duties of their position. If an employee's use of such prescription drugs could adversely affect City operations or

safety of City employees or other persons, City may reassign the employee using the prescription drugs to other work or take other appropriate action to accommodate the physical or mental effects of the medication. Failure to report use of prescription drugs covered by this rule will subject an employee to disciplinary action, up to and including termination. (Although an employee is not required to provide City with the name(s) of the prescription medication(s) taken, medical verification of the prescription may be required.)

- 2.3. The use of marijuana, which is a Schedule 1 controlled substance under federal law, is expressly prohibited under this policy, even if its medical use is authorized under state law. Employees who use medical marijuana in connection with a disability should discuss with their Supervisor other means of accommodating the disability in the workplace, as the City will not agree to allow an employee to use medical marijuana as an accommodation.

### 3. Testing.

- 3.1. The City reserves the right to:

- 3.1.1. Subject applicants who are given a condition offer of employment in a safety-sensitive position to a drug and alcohol test;
- 3.1.2. Test employees reasonably suspected of being impaired in violation of this policy;
- 3.1.3. Discipline or discharge employee who test positive or otherwise violate this policy; and
- 3.1.4. Test employees when they:
  - 3.1.4.1. Cause or contribute to accidents that seriously damage a City vehicle, machinery, equipment or property;
  - 3.1.4.2. Result in an injury to themselves or another employee requiring offsite medical attention; or
  - 3.1.4.3. When the City reasonably suspects that the accident or injury may have been caused by drug or alcohol use.

### 4. Reasonable Cause Testing

- 4.1. If there is reasonable cause to suspect that an employee is under the influence of controlled substances or alcohol during work hours or has used drugs or alcohol in violation of this policy, the City may require the employee to undergo testing for controlled substances or alcohol.
- 4.2. Supervisors should detail in writing the specific facts, symptoms or observations that form the basis for their determination that reasonable cause exists to warrant alcohol or

controlled substance testing of an employee or a search. This documentation shall be forwarded to Risk Management. Whenever possible, supervisors should locate a second employee or witness to corroborate their “reasonable cause” findings.

- 4.3. The City will use a qualified contractor to administer drug and alcohol testing per SAMHSA requirements.

## 5. Search of Property

- 5.1. When reasonable cause exists to believe an employee possesses alcohol or a controlled substance on City property, or has otherwise violated provisions of this rule regarding possession, sale or use of controlled substances or alcohol, the City may search furniture, equipment or other property provided to the employee by the City, including but not limited to clothes (uniforms), locker, toolbox, and desk.
- 5.2. Employees have no expectation of privacy in any property, equipment or supplies provided by the City to employee.

## 6. Employee Refusal to Test/Search

- 6.1. An employee who refuses to consent to a test or a search when there is reasonable cause to suspect that the employee has violated this policy is subject to disciplinary action up to and including termination.
- 6.2. An employee who refuses to cooperate with any tests required by this policy is also subject to discipline, up to and including termination. This includes, but is not limited to, tampering with, or attempting to tamper with, a specimen sample, using chemicals or other ingredients to mask or otherwise cover up the presence of metabolites, drugs or alcohol in a specimen, or providing a blood or urine specimen that was produced by anyone or anything other than the employee being tested.
- 6.3. Due process shall be followed when determining the appropriate disciplinary action.

## 7. Crimes Involving Drugs and/or Alcohol

- 7.1. Employees shall report:

- 7.1.1. Any criminal arrest or conviction for drug- or alcohol-related activity within five days of the arrest or conviction;
- 7.1.2. Entry into a drug court or diversion program; or
- 7.1.3. Loss or limitation of driving privileges when the employee's job is identified as requiring a valid driver's license (regular or CDL).

7.2. Failure to report as required will result in disciplinary action up to and including termination.

## 8. Drug and Alcohol Treatment

8.1. The City recognizes that alcohol and drug use may be a sign of chemical dependency and that employees with alcohol and drug problems can be successfully treated. The City is willing to help such employees obtain appropriate treatment.

8.2. An employee who believes that they have a problem involving the use of alcohol or drugs should ask a supervisor or Human Resources for assistance.

8.3. The City will work with an employee to identify all benefits and benefit programs that may be available to help deal with the problem. Attendance at any rehabilitation or treatment program will be a shared financial responsibility of the employee and the City to the extent its existing benefits package covers some or all of the program costs.

8.4. Although the City recognizes that alcohol and drug abuse can be successfully treated and is willing to work with employees who may suffer from such problems, it is the employee's responsibility to seek assistance before drug or alcohol problems lead to disciplinary action. Once a violation of City policy is discovered, the employee's willingness to seek the City or outside assistance will not "excuse" the violation and generally will have no bearing on the determination of appropriate disciplinary action.

## 9. Discipline and Consequences of Prohibited Conduct

9.1. An employee who violates this policy will be subject to either termination or a last-chance agreement.

9.2. A last-chance agreement is an agreement whereby an employee who would otherwise be terminated is provided an opportunity to address their substance abuse issue and/or performance or safety issues. The last-chance agreement will inform the employee of the problems noted with his/her performance and to specify the performance required for the employee to achieve in order to continue to be employed by the City.

9.3. Violation of the provisions of a last-chance agreement shall result in immediate termination of the employee, notwithstanding the provisions of any other personnel rule.

## 10. Confidentiality

10.1. All information from an employee's drug and alcohol evaluation is confidential and only those with a need to know are to be informed of test results. Disclosure of such information to any other person, agency, or the City is prohibited unless written authorization is obtained from the employee

## Definitions

1. *"Alcohol"* is an intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.
2. *"Controlled substance"* includes, but is not limited to, any controlled substance listed in Schedules I through V of the Federal Controlled Substance Act, including marijuana that is otherwise lawful to use under Oregon, Washington or any other state's law.
3. *"Drug or Alcohol Test"* is the compulsory submission of urine, breath, or blood by an employee in accordance with established collection and testing procedures to detect drug and/or alcohol use.
4. *"Drugs"* is any intoxicants or controlled substances as defined by the criminal code of the State of Oregon, or the federal Controlled Substances Act (CSA), which includes, but is not limited to, any controlled substance listed in Schedules I through V of the CSA, including marijuana, or substances lawfully prescribed for the employee's use and over-the-counter medications, which could have an adverse impact on their ability to perform their job duties in a safe and effective manner. The definition of drugs excludes alcohol.
5. *"Employee"* is any employee, officer, elected official, volunteer, intern, or agent of the City, such as an independent contractor or similar person who is performing the work of the City.
6. *"Reasonable cause"* as used in this policy means an articulable belief based on specific facts and reasonable inferences drawn from those facts that an employee is more likely than not under the influence of controlled substances or alcohol or has used drugs or alcohol in violation of this policy. Circumstances which can constitute a basis for determining "reasonable cause" may include, but are not limited to:
  - 6.1. a pattern of abnormal or erratic behavior;
  - 6.2. information provided by a reliable and credible source;
  - 6.3. direct observation of drug or alcohol use;
  - 6.4. presence of the physical symptoms of drug or alcohol use (*i.e.*, glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination and/or reflexes);
  - 6.5. unexplained significant deterioration in individual job performance;
  - 6.6. unexplained or suspicious absenteeism or tardiness;
  - 6.7. employee admissions regarding drug or alcohol use; and
  - 6.8. unexplained absences from normal work areas where there is reason to suspect drug or alcohol related activity.

7. “*Test*” and “*testing*” shall be construed to mean job impairment field tests, laboratory tests, breathalyzer tests, and other tests of saliva, blood and urine. No testing shall be performed under this regulation without the approval of Human Resources Director or designee.
8. “*Under the influence of alcohol*” is when the individual's blood alcohol content is .02% or greater.
9. “*Under the Influence of Drugs*” are when a person’s ability to safely and effectively perform employment related duties is noticeably or perceptibly impaired and when any detectable level of a drug is subsequently found in the individual’s body.
10. “*Work Place*” is any location where an employee is performing City job duties or is representing the City in an official capacity during the employee’s regular business hours, whether or not the employee is compensated.

**Resources:**

*Administrative Regulation:*

1. [Employee Benefits](#)
2. [Employee Assistance Program](#)
3. [DOT – CDL Substance Abuse Testing](#)

*Forms:*

1. Consent to Search Form (Pending)

*Non City Resources*

1. [Substance Abuse and Mental Health Services Administration \(SAMHSA\)](#)
2. [United States Department of Labor \(DOL\)](#)

**CREATION (Original):**

This administrative regulation is in effect as of the date of my signature. I authorize the Human Resource Director to modify the history and resources sections and header, footer, and numbering without my reauthorization. The administrative regulation remains in effect should these revisions occur.			
<b>Approved By:</b>	Nancy Newton, City Manager	<b>Dates:</b>	Sept. 21, 2021
<b>Author:</b>	Chaim Hertz, Human Resources Director		
<b>Responsible Party:</b>	Human Resources		
<b>Replaces:</b>	Replaces 03-11.05 Drug and Alcohol Free Workplace		

**PERIODIC REVIEW:**

<b>Reviewer:</b>		<b>Date:</b>	
<b>Reviewer:</b>		<b>Date:</b>	
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**REVISIONS:**

<b>Version #2:</b>	<b>Responsible Party:</b>			
	<b>Revised By:</b>			
	<b>Approved By:</b>		<b>Date:</b>	
	<b>Reason/Summary of Changes:</b>			